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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/819,464	03/28/2001	Martin Friede	B45070-1 US1	1150

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EXAMINER

LUCAS, ZACHARIAH

ART UNIT	PAPER NUMBER
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1648

NOTIFICATION DATE	DELIVERY MODE
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07/08/2008

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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DETAILED ACTION

1. Claims 74-84, 94, and 95 are currently pending in the application.
2. In the prior action, the Final action mailed on March 9, 2007, claims 74-84 and 94-96 were pending and rejected.
3. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on June 2, 2008 (correcting informalities in the Response of May 2, 2008) has been entered.

In the Response, claim 96 was cancelled.

4. Claims 74-84, 94, and 95 are under consideration.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. **(Prior Rejection- Maintained)** Claims 74-76, 78, 80, 82-84, and 94-96 were rejected under 35 U.S.C. 103(a) as being unpatentable over Lipford (Vaccine 12: 72-80) in view of the teachings of Kensil (U.S. 5,583,112). In view of the cancellation of claim 96, the rejection is withdrawn from this claim.

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The Applicant traverses the rejection on the basis of the lack of specific teachings regarding the ration of QS-21 to sterol in the cited references. These arguments are not found persuasive for at least the reasons provided in the action of July 17, 2006. The rejection is therefore maintained for the reasons of record.

7. **(Prior Rejection- Maintained)** Claims 77, 79, and 81 were rejected under 35 U.S.C. 103(a) as being unpatentable over either Lipford in view of Kensil as applied against claims 74-76, 78, 80, 82-84, and 94 above, and further in view of Prieels et al. (WO 94/00153). The Applicant traverses this on the same grounds as argued with respect to the rejection over Lipford and Kensil above. The rejection is therefore maintained for the reasons above, and the reasons of record.

8. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Conclusion

9. No claims are allowed.

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10. All claims are drawn to the same invention claimed in the application prior to the entry of the submission under 37 CFR 1.114 and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the application prior to entry under 37 CFR 1.114. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action after the filing of a request for continued examination and the submission under 37 CFR 1.114. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Zachariah Lucas whose telephone number is (571)272-0905. The examiner can normally be reached on Monday-Friday, 8 am to 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bruce Campell can be reached on 571-272-0974. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Zachariah Lucas/
Primary Examiner, Art Unit 1648